IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

Bail Appl..No. 6773 of 2007()

[CR. NO.189/07 OF ARYANCODE POLICE STATION]

: PETITIONER/A1 TO A5

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1. DEEPAK.M., AGE 29,
   S/O.MANIKANDAN, M.K.HOUSE,
   KUTTIYAYANIKADU, KEEZHAROOR P.O.

2. MOHANADAS, AGE 49,
   S/O.ESMAIL, MELAEKAVAIDIKUZHI VEEDU,
   KUTTIYAYANIKADU, KEEZHAROOR P.O.

3. SHAJI.R., AGE 36, S/O.RAVEENDRAN,
   KUTTIYAYANIKADU, KEEZHAROOR P.O.

4. DILEEP.M., AGE 19, S/O.MOHANADAS,
   MELAEKAVAIDIKUZHI VEEDU, KUTTIYAYANIKADU,
   KEEZHAROOR P.O.

5. UNNI @ DILEESH, AGE 18,
   S/O.MOHANADAS, MELAEKAVAIDIKUZHI VEEDU,
   KUTTIYAYANIKADU, KEEZHAROOR P.O.

BY ADV. SRI.SASTHAMANGALAM S. AJITHKUMAR
SRI.SHAJIN S.HAMEED

RESPONDENTS:

THE S.I. OF POLICE, ARYANCODE POLICE
STATION, REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.6773 of 2007

Dated this the 14th day of November 2007

O R D E R

Application for anticipatory bail. Petitioners are accused 1 to 5. They face allegations in a crime registered inter alia under Sections 308 and 326 read with 149 I.P.C. The crux of the allegations against the petitioners is that they attacked workmen belonging to the C.I.T.U, who had come to their property and had insisted on work of unloading the marble slabs in the property of the petitioners to be given to them. The petitioners had wanted to unload the consignment employing their own workmen. In the melae that took place, the victims - five persons had suffered injuries including dislocation. The alleged incident took place on 17/10/2007. Investigation is in progress. Admittedly, there is a counter case also about the same incident. The mother of the petitioners is the de facto complainant in that crime. The allegation in that crime is that the victims in this crime had trespassed into her property and outraged her modesty. Hurt was also allegedly caused by the accused in the counter case. Investigations into both cases are now in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. They were actually victims of aggression and not aggressors. At any rate, considering the nature of the allegations and counter allegations, the petitioners may be granted anticipatory bail. The petitioners do not deserve to endure the trauma of arrest and detention, submits the learned counsel for the petitioners. The petitioners are willing to abide by any appropriate conditions that may be imposed by this court, he pleads.

3. The learned Public Prosecutor does not oppose the application. He only prays that appropriate conditions may be imposed. Having considered all the relevant inputs in this case including the nature of the allegations and counter allegations raised, I am satisfied that direction under Section 438 Cr.P.C can be issued in favour of the petitioners. Appropriate conditions can of course be imposed.

4. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioners.

i) Petitioners shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 21/11/2007. They shall be released on regular bail on condition that they execute bonds for Rs.50,000/-(Rupees fifty thousand only) each with two solvent

sureties each for the like sum to the satisfaction of the learned Magistrate.

ii) The petitioners shall make themselves available for interrogation before the investigating officer between 10 a.m and 5 p.m on 22/11/2007 and 23/11/2007. During this period, the investigating officer shall be at liberty to interrogate the petitioners in custody and take all necessary steps for the proper investigation. Thereafter the petitioners shall so appear on all Mondays and Fridays between 10 a.m and 12 noon for a period of two months and subsequently as and when directed by the investigating officer in writing to do so.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law, as if these directions were not issued at all.

(iv) If they were arrested prior to 21/11/2007, they shall be released from custody on their executing a bond for Rs.50,000/- (Rupees fifty thousand only) without any sureties, undertaking to appear before the learned Magistrate on 21/11/2007.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007